IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

****

THE CITY OF HUNTINGTON,

Plaintiff,

v. CIVIL ACTION NO. 3:17-01362

AMERISOURCEBERGEN DRUG CORPORATION, et al,

Defendants.

CABELL COUNTY COMMISSION,

Plaintiff,

vs.

AMERISOURCEBERGEN DRUG CORPORATION, et al,

Defendants.

****

Videotaped and videoconference deposition of LACEY R. KELLER, MA, taken by the Defendants pursuant to the West Virginia Federal Rules of Civil Procedure, in the above-entitled action, pursuant to notice, conducted virtually via Zoom, before Twyla Donathan, Registered Professional Reporter and Notary Public, on the 18th day of September, 2020.

whether or not Allergan witnesses have testified in this case?

A No.

Q Now, in your report in the Track One Summit/Cuyahoga County case, you offered the opinion that, quote: "All defendant labelers purchased IQVIA Xponent data." Is that correct?

A Let me pull that report.

Q Sure. If you would turn to page 9, paragraph 27.

A I see that statement, yes.

Q And that was your opinion in that matter, correct?

A Yes.

Q And you stand by that opinion?

A Yes.

Q In that Track One case, did you determine whether or not any of the Distributor Defendants had also purchased IQVIA component data?

A No. That was not asked of me.

Q Okay. And just to be clear, you made no such statements in your report, correct?

A Correct.

Q As you sit here today, are you aware of any

case defendants that have purchased the IQVIA Xponent data?

A I am aware that defendants have purchased products from IQVIA -- data products from IQVIA.

Q My question was a little bit different. As you sit here today, are you aware of any case defendant that has purchased the IQVIA Xponent data?

MR. METZ: Object to the form.

A So case defendants purchased, for at least a limited period of time, a dataset called Compliant Solutions, I believe. Let me make sure I'm saying that correctly.

Sorry. My computer is giving me trouble here. So I know that for at least a trial basis some of the case defendants purchased something called CS Ratings -- I'm sorry. I misspoke earlier.

As part of that data, and I quote, "IMS CS ratings data -- available from IMS DDD -- PM -- (reading) Xponent TM, LifeLink TM, HCRS TM databases, and such data is refreshed on a per month basis" (reading rapidly from unidentified document.)

Q Forgive me. For purposes of that answer, you appear to be consulting some other material. What is it that you're consulting?

A Sure. Let me give you the Bates number of that document. CAH_NY Consolidated-0151611.

Q And what system are you reviewing that document on?

A FoxIt. It's like Adobe.

Q I'm sorry. Maybe my question was meant to be more basic than that. Are you reviewing that on a computer?

A Yes.

Q Is it the same computer through which you're streaming your deposition today or is it a different computer?

A Same computer.

Q And forgive me. I just have to ask. This is not meant to insinuate anything. Are you communicating with anyone else via electronic means during the course of your deposition?

A No.

Q Has anyone sent you any information over that -- your computer during the course of the deposition?

A No.

Q Okay. And if that were to occur, would you tell me?

A If asked, yes.
Q Well, I'm asking now.
A Okay. If you're asking me, then yes, I will.
Q And when you pulled that document you just referenced, when you pulled that up, where did you retrieve it from?
A So I believe there's -- it's the attachment to another document that I think is cited in our report. And I had asked for one of the paralegals to pull me the attachment that appeared to come with the citation in my report.
Q I see. I'm sure I could check this, but does the Bates number you just gave me, does that appear as the citation within your report?
A I don't believe so, no.
Q Does it appear on your materials considered?
A I don't believe so.
Q And we said that for a limited time, at least some case defendant had purchased CS Ratings. What was that limited time period?
A I don't know the time period. I know that AmerisourceBergen had, for example, purchased a few

months' trial of data from IQVIA -- or IMS probably at the time. And I've seen documents dated in 2018. And then previous documents were dated a little bit earlier, I can't remember if it was like 2012 or 2013, for AmerisourceBergen.

Q And are those documents cited in your report?

A Yes.

Q Now, I had asked you about the IQVIA Xponent data. You answered with reference to CS Ratings, and then I think read some information to me about that. Have you ever yourself reviewed the CS Ratings database?

A No.

Q You don't know in what format the data is presented?

A Correct.

Q You have not analyzed the CS Ratings database?

MR. METZ: Object to form.

A Correct.

Q You have not run any data analytics or data mining off the CS Ratings database?

A Correct.

Q You don't know what fields of information are presented in the CS Ratings database?

MR. LEDLIE: Object to the form.

A Not beyond what's been cited in my report. I think there was discussion in one of the documents that it talks about pharmacies and physicians, but that's about the extent of my knowledge of what's in that dataset.

Q And that information you just referenced, was that statement made in relation to the CS Ratings database specifically or some other database?

A In talking about the CS ratings data, I've not looked at it personally. I've only seen what has been described in document side of my report.

(Court reporter asked the witness for audio clarification, requesting both counsel and the witness to be mindful and keep their voices up towards the end of their questions and answers.)

Q Now, you offered the opinion in the Track One Summit and Cuyahoga case that as a result of the labelers' possession of IQVIA Xponent data, quote:

"It was and is possible using standard data analytic tools to determine from the data that the defendant labelers had in their possession suspicious

prescribing and purchasing patterns, and to identify particular positions and particular pharmacies the problematic prescribing patterns," closed quote.

Do you recall that?

A Yes.

Q And you stand by that opinion?

A Yes.

Q Have you at any point defended any of the opinions that you offered in the Track One MDL case?

A I think we clarified that, where insofar as we say "suspicious," we mean those prescribers or pharmacies who would have triggered compliance metrics.

Q You're saying it would trigger compliance metrics, but you lack the qualification to say that, in fact, makes them suspicious within applicable regulations, correct?

A Correct.

Q And just so the record is clear, your use of the term "labelers" in that statement I just quoted, was -- that meant manufacturers, not any of the distributors who are also defendants in that case, correct?

A Correct.

Q Okay. What is switch data?
A I can't recall the definition right now, but from what I remember -- I actually can't remember right now. I'm sorry.
Q Okay. So --
A I would be happy to pull the document, because I have it handy, but I can't remember it.
Q Is that document cited somewhere in your report?
A No.
Q Continuing on page 110, do you see that you were then asked few lines down -- I guess right after the last answer, you were asked:
"Okay. So when you say defendants had sufficient information, you don't mean to say they had the same information that you had?" Question mark.
And you answered: "Correct."
Do you see that?
A Yes.
Q And then can you turn to page 115.
A Okay.
Q Do you see beginning line 10, you were asked the question:

"Okay. Now this term, quote, sufficient information, closed quote, you told us earlier a distributor would not have had all of the information, all of the data that you referred to in your report."

Do you see that?

A Yes.

Q And you answered: "Correct, a distributor may or may not have had IQVIA data."

Do you see that?

A Yes.

Q And that was truthful testimony?

A Yes.

MR. METZ: I think we've been going a little bit over an hour. If it makes sense to you (distorted audio)...

(Court reporter again cautioned counsel and the witness regarding their poor audio transmission, to keep their voices up towards the end of their questions and answers.)

VIDEOGRAPHER: The time is 11:23. We're going off the record.

(A recess was taken.)

VIDEOGRAPHER: The time is 11:38.

contours of your expert report?

A Yes.

Q In what manner do you consider your opinions to be limited?

A I would say in the other reports we apply compliance metrics. In this report we do not go through that process, is one example. In the New York report, we analyzed the distributors' own compliance data, like the actual suspicious order reports made by those entities. Those are not included in this report.

Q At page 59 of your report you have a summary of your conclusions.

MR. LEDLIE: We're in Exhibit 1, sir?

MR. METZ: Yes, sir.

A Okay.

Q And your first conclusion, which is in paragraph 50, you write:

"Based on my analysis of IQVIA data, I conclude that case defendants had sufficient information to understand overall prescribing trends in Cabell County."

Do you see that?

A Yes.

Q Is it your opinion in this matter that the case defendants, the wholesale distributors who are the defendants here, had the IQVIA data that you are analyzing in the course of their business?

A No, I'm making the application that IQVIA was widely available for purchase by the pharmaceutical industry. We know for a fact that based on internal documents from -- McKesson, AmerisourceBergen, and Cardinal -- all three had purchased some products from IQVIA. And what we're trying to demonstrate here is the information that could have been gleaned from distributors, had they accessed the IQVIA Xponent data or some other similar dataset.

Q So when you say the case defendants had sufficient data, you mean it's your opinion that they could have had, had they accessed something that they haven't produced in this case, correct?

MR. LEDLIE: Object to form.

A But that statement starts with "based on my analysis of the IQVIA data." We're saying based off what we have seen in the IQVIA data, there was -- you could understand the prescribing trends in Cabell County.

Q And you don't use the word "Xponent" in that sentence, but am I correct that the sentence specifically is referring to IQVIA Xponent data, yes?

MR. LEDLIE: Object to the form of the question.

A Our analysis did rely upon the IQVIA Xponent data, but again, there are other datasets that were available and often purchased -- or and purchased. I don't know that I should go as far as to say "often," and were purchased by defendants from IMS.

Q We'll talk about those other datasets in a minute. I just want to make sure I understand this sentence. Of potentially available datasets sold by IQVIA, the only one you analyzed for purposes of your opinions in this matter is the IQVIA Xponent database produced by Allergan, correct?

MR. LEDLIE: Object to the form.

A Correct.

Q So when it says "based on my analysis of IQVIA data," that also would accurately be understood to mean based on your analysis of the IQVIA Xponent data produced by Allergan, correct?

MR. LEDLIE: Object to the form.

A Yes. Again, you know, other IMS products were available for purchase from IMS by defendants, but we did only analyze the IQVIA Xponent data.

Q And then -- so then when you continue in that sentence to say "case defendants had sufficient information," that more accurately should be read to mean "could have acquired sufficient information," to continue with the rest of your sentence, yes?

MR. LEDLIE: Object to the form.

A So I'm not sure that I would quibble with the word "had," because I know AmerisourceBergen when evaluating the IQVIA data, they, in fact, said that they had data that was even more granular on prescribers and pharmacies, and so they recommended not purchasing it.

So I can't speak one way or another whether they had better data than the Xponent data and more granular data. I just know what I see in the IQVIA Xponent data, and that defendants were able to purchase products from that company.

Q I think that was a little different than the question I asked you.

So we will return to what you just referenced in regards to some other data that you

reference for AmerisourceBergen. But did you -- as you sit here, is it your belief that any of the case defendants had the IQVIA Xponent data that you analyzed?

A It is -- They did not have the Xponent data produced by Allergan. I mean, you might now have it, because of litigation, and they would produce that, but I don't think that's your question. But I do maintain that they could have purchased other products from IMS.

Q I understand you maintain that. I am not asking about that. I want to make sure that there is a qualification to your answer. I just want to make sure it's not limiting your testimony on this point.

As you sit here, is it your belief or understanding that any of the case defendants in the ordinary course of their business had IQVIA Xponent data specifically, whether or not it was the same copy as the one that you analyzed from Allergan?

MR. LEDLIE: Object to the form of the question.

A I don't know one way or another specifically. I only know what I have seen in the documents cited in my report. And I know that that

IQVIA MENU

– Locations – United States – Our U.S. Solutions – Commercial Operations – Essential Information – Prescription Information

Prescription Information

Pharmaceutical and financial companies rely on IQVIA's prescription information to measure market and product demand.

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Gain the most accurate and reliable view of market demand.

Pharmaceutical and financial companies rely on IQVIA's prescription information to measure market and product demand.

Get a timely, accurate picture of your competitive performance and demand for your products through weekly and monthly prescription information

EXHIBIT 7

Ensure the most informed guide to competitive sales strategies and national performance with national and sub-national information

Gain a deep understanding of your key drug dispensing channels with the most robust capture of activities including retail, mail, and long-term care sectors

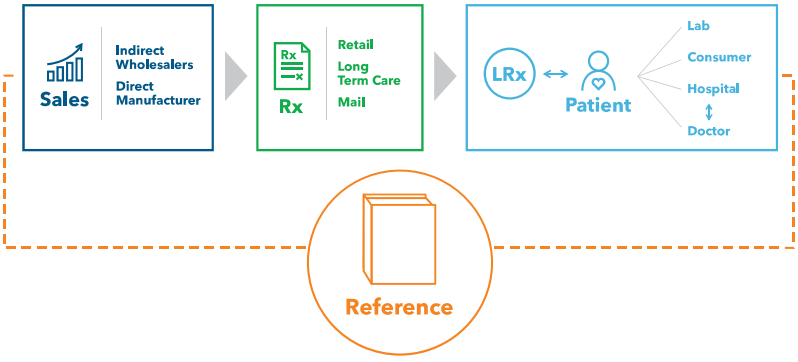
Integrate real-world data with prescription activities for a complete 360-degree view

IQVIA's key prescription information offerings:

Xponent® - A suite of sub-national reporting providing granular prescription performance perfectly aligned to help manage customer operations, sales targeting, and representative incentive compensation

National Prescription Audit® (NPA): Relied upon as the most accurate and consistent measure of national prescription performance. NPA provides the fastest insights into weekly prescription dispensing through a BI tool platform designed exclusively for healthcare reporting.

Contact us to find out how you can start leveraging these prescribing pattern insights.



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Expert Analysis: Lacey R. Keller

1

a. Association of Certified Fraud Examiners (ACFE) Global Fraud Conference (forthcoming: 2019)
b. NASAA Investment Adviser Training (2017, 2019)
c. Association of Certified Fraud Examiners (ACFE) Law Enforcement and Government Anti-Fraud Summit (2018)
d. PLI Hedge Fund and Private Equity Enforcement & Regulatory Developments 2018 (2018)

20. My CV is attached as Exhibit 1.

C. Remuneration

21. Gryphon is being compensated for its time and expenses. My hourly rate is $475 per hour. Other Gryphon personnel working on this matter have billing rates of $275 to $375 per hour.

D. Scope of Report

22. This report focuses specifically and exclusively on manufacturers' anti-diversion and suspicious order monitoring programs. Throughout the report, I will refer to labelers and manufacturers interchangeably as the entities that create the drugs analyzed.

23. I have been asked to report the results of applying certain compliance metrics applicable to manufacturers to prescribers.

24. I have been asked to report the results of applying certain compliance metrics applicable to a manufacturer to pharmacies and physicians.

25. I have been asked to trace the orders made by distributors that were deemed peculiar by a manufacturer to the end pharmacy buyer through that manufacturer's chargeback data.

26. I have been asked to report the impact on opioid prescribing in Summit and Cuyahoga County if a small labeler had reported the activity of suspicious prescribers.

E. Summary of Opinions

27. My findings demonstrate that there were millions of prescriptions and purchases of billions of dosage units and MMEs in Cuyahoga and Summit counties that defendant manufacturers of opioids (called labelers) could have identified as being of unusual size or frequency and deviating from the normal pattern yet were unreported. I found that defendant labelers purchased external data sources (IQVIA) and maintained internal data sources (chargebacks, 867 data, sales data) that provided them with granular information regarding the entity distributing, prescribing, and purchasing their opioid products. All defendant labelers purchased IQVIA Xponent data. All of this information was sufficient to support a Suspicious Order Monitoring (SOM) program identifying problematic distributors, prescribers and pharmacies. In particular, it was and is possible using

standard data-analytic tools to determine from the data that the defendant labelers had in their possession suspicious prescribing and purchasing patterns, and to identify particular physicians and particular pharmacies with problematic prescribing patterns.

28. I found that defendant labelers purchased robust external data sources and maintained internal data sources that provided them with granular information regarding the entity distributing, prescribing, and purchasing their opioid products. This information was sufficient to support a Suspicious Order Monitoring (SOM) program identifying problematic prescribers and pharmacies. Nonetheless, defendant labelers did not implement robust monitoring programs and therefore failed to capture a substantial volume of potentially suspicious transactions.

29. Although all defendant labelers purchased IQVIA Xponent® data, each used it to monitor potential inappropriate prescribing in different ways to differing degrees. Teva and Mallinckrodt, for example, committed to regularly monitor IQVIA Xponent as agreed to with the FDA in their Risk Monitoring Plans (RMP), also known as Risk Minimization Action Plans (RiskMAP).[1] However, the details of how that data analysis would take place and what actions it would lead to was unspecified. To my knowledge only one defendant, Purdue Pharma, used IQVIA in a programmatic or algorithmic way[2]. Implementing Purdue's calculations, however, requires additional data that has not been made available to me.

30. Furthermore, instead of using this data to develop monitoring programs, defendants used it to inform their targeted marketing efforts to prescribers and evaluate drug performance. Similarly, despite the scope and detail of the chargeback data they maintained, defendant labelers did not use that data programmatically or effectively to capture suspicious activity among end buyers.

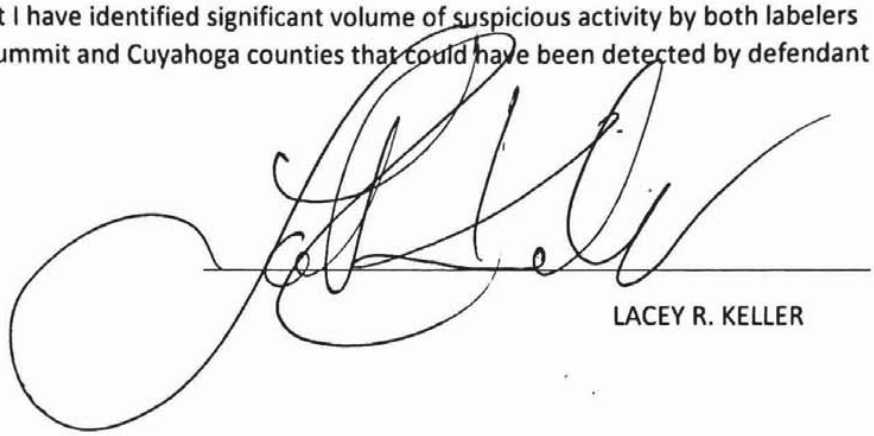
31. To quantify the prescriptions or transactions that labelers could have readily detected were of unusual size or frequency, I applied a series of compliance metrics to each dataset. Defendant labelers and distributors originally developed all but one of these compliance metrics. Among these metrics were whether the volume prescribed or ordered was over a certain static threshold; whether a buyer significantly increased prescriptions or purchases relevant to their own histories; or how prescriptions or purchases compared to national averages for the same labeler opioid product. I then applied these compliance metrics to physicians and pharmacies to determine what suspicious activity could be detected by labelers. The last metric was derived from labeler defendants' due diligence Standard Operating Procedures documents in which companies expressed concern that pharmacies may be purchasing large quantities of controlled substances from more than one distributor as a means of staying below distributor thresholds. Manufacturers were uniquely positioned to identify end-customers' purchasing patterns and, thus, which customers were using multiple distributors.

32. In Part One of this report, I analyzed the prescribing history of physicians from a labeler's perspective. As previously noted, this analysis relied on IQVIA Xponent® data, which was often purchased by defendant labelers for marketing purposes. In fact, this dataset was produced

[1] TEVA_CHI_00049296, MNK-T1_0007204156
[2] PDD1503450011

O. Conclusion

1. Based on my analysis of IQVIA Xponent® data and chargeback data produced by the defendant labelers, I conclude that labelers had sufficient information to assess end buyer prescriptions and purchases.
2. I further conclude that compliance metrics, if properly applied, are capable of capturing patterns of transaction of unusual size or frequency, as illustrated above. Defendant labelers could have leveraged this information to diligently monitor suspicious activity involving defendant labeler opioid products.
3. I further conclude that I have identified significant volume of suspicious activity by both labelers and pharmacies in Summit and Cuyahoga counties that could have been detected by defendant labelers.



LACEY R. KELLER

City of Huntington v. AmerisourceBergen Drug Corp. et al, No. 3:17-cv-1362 (S.D.W.Va.)
Cabell County Commission v. AmerisourceBergen Drug Corp. et al, No. 3:17-cv-1665 (S.D.W.Va.)

Expert Report
Lacey R. Keller

nearly 60,000 pharmacies,[12] 72% of mail order pharmacies' distributions obtained from nearly 400 locations, and 78% of long-term care pharmacies' distributions obtained from over 3,000 locations originating at the pharmacy terminal level.[13]

10. Given that IQVIA reflects the prescribing history of physicians, the dataset could allow anyone who purchases it to determine how frequently a physician prescribed particular drugs, as well as what formulations and in what dosages, and how prescribers ranked among other prescribers. The data also allows for the identification of opioid prescribing patterns of individual physicians compared to their cohorts based on specialty, geography (e.g., city, county, zip code, state), and time period. Although IQVIA reflects only the share of prescriptions that were actually filled given that the data is derived from pharmacy sales records, filling pharmacy information is not provided with the data. [14,15]

11. I first received this data on or around February 1, 2019. I processed this data in my capacity as a plaintiff expert witness in re National Prescription Opiate Litigation, MDL No. 2804. The data was produced as part of Production Volume Number thirteen (ALLERGAN-MDL013) containing the following bates range: ALLERGAN_MDL_02167865 to ALLERGAN_MDL_02485011.[16]

12. Due to rounding differences in such high-volume data, percentages in IQVIA-based tables differ depending on the metrics displayed and the level of granularity used. IQVIA natively represents monthly prescription estimates as decimals. I preserve the raw form of the data in as exact a format as possible while rounding prescriptions to the nearest non-zero whole number. Totals may reflect slightly different values because of differences in underlying aggregation.

[12] The IQVIA data includes Chain Pharmacies, Independent Pharmacies, Foodstore Pharmacies, Discount Houses, Mass Merchandisers, Standard & Specialty Mail Pharmacies Combined, and Long-Term Care Pharmacies. It does not include Dispensing Physicians, Hospital Pharmacies, Clinic Pharmacies, Closed-Wall HMOs, Home Healthcare, and the Veterans Administration Long-Term Care or Mail Order Pharmacies.
[13] "National Sales Perspectives & National Prescription Audit Overview." *IQVIA*, 2017.
[14] "National Sales Perspectives & National Prescription Audit Overview." *IQVIA*, 2017.
[15] It is my understanding that other data products from IQVIA do contain this information.
[16] "In re National Prescription Opiate Litigation, MDL No. 2804." *Allergan Finance, LLC (f/k/a Actavis, Inc. f/k/a Watson Pharmaceuticals, Inc.),* August 10, 2018 regarding production Volume Number thirteen (ALLERGAN-MDL013) containing the following bates range: ALLERGAN_MDL_02167865 to ALLERGAN_MDL_02485011

Under penalty of perjury, I declare that I have read the foregoing and that the facts alleged therein are true and correct to the best of my knowledge and belief.

Date: August 3, 2020

/s/ Lacey R. Keller

Lacey R. Keller

CORRECTED EXPERT REPORT OF LACEY KELLER

January 15, 2020

In Re Opioid Litigation, 400000/2017

Relating to Case Nos. County of Suffolk, 400001/2017; County of Nassau, 400008/2017; and New York State, 400016/2018

28. Compliance metrics for the IQVIA Xponent® data are shown separately as applied to prescriptions of all labeler products and prescriptions of included Defendants' opioid products. Both options could be considered underestimates of Defendants' overall suspicious activity. Defendants could have purchased the entire IQVIA Xponent® dataset, which could provide for a larger denominator on which to flag but which could potentially result in a smaller percentage of flagged prescriptions/transactions. However, it is possible that Defendants purchased only their own data in IQVIA Xponent®, which could provide a smaller denominator on which to flag but which could result in a larger percentage of flagged prescriptions/transactions.

29. My opinions are based on my professional experience and training and rely on publicly available data and information, documents produced in this litigation, documents produced in *In Re: National Prescription Opiate Litigation*, Case No. 18-md-2804 (MDL), and documents produced in the New York Attorney General's pre-litigation investigation. This analysis reflects findings and opinions based on the data that I received and was able to process prior to the filing of this report. I acknowledge that there are additional sources that I was not able to consider for this report and I continue to review documents and gather information. Should substantial new data, compliance metrics, or clarifications become available to me, I reserve the right to update my analysis.

III. Scope of Report and Summary of Opinions

30. In Section VI: Statewide Overview of this report, I provide an overview of purchasing and prescribing histories in New York for chain pharmacies, retail pharmacies, and practitioners.[15] There are other buyer types (hospitals, VA medical clinics, treatment centers) that exist in New York State and would only increase the numbers included in this analysis. I analyze the prescribing history of physicians and purchases by pharmacies from defendant's perspectives. For labeler and prescriber analysis, I rely upon IQVIA Xponent® and chargeback data, which could have been purchased or was maintained by Defendant Labelers. For distributor and buyer analysis, I rely upon the government-produced ARCOS and MADOCS data, which should be synonymous with the shipment data produced by Defendants. Section VI: Statewide Overview serves as contextual reference for the remainder of this report.

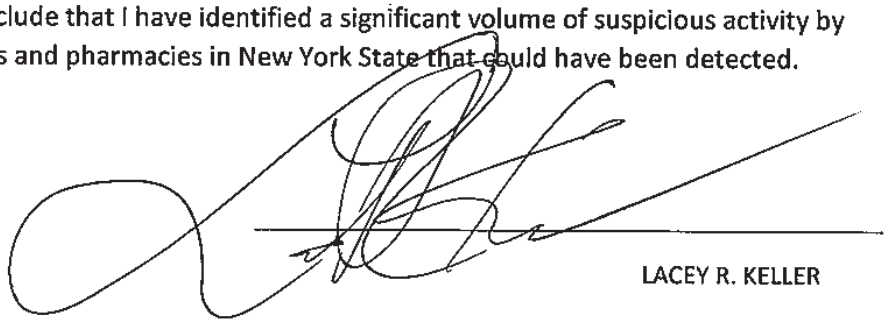
[15] IQVIA also provides prescription data at the hospital or medical center (I.E., Brooklyn Hospital Center, LI Jewish Medical Center) which I have also included. Their specialty is listed as "Other/Unspecified Specialty" and the compliance metrics apply them to other entities that share this specialty.

VII. Conclusion

171. Based on my analysis of IQVIA Xponent® data chargeback data, and ARCOS/MADOCS data produced in this litigation, I conclude Defendants had sufficient information to assess prescriptions and pharmacy purchases.

172. I further conclude that compliance metrics are capable of capturing transactions of unusual size, frequency, or pattern as illustrated above. Defendants could have leveraged this information to diligently monitor suspicious activity involving opioid products.

173. I further conclude that I have identified a significant volume of suspicious activity by both prescribers and pharmacies in New York State that could have been detected.



LACEY R. KELLER

IMS Health & Quintiles are now IQVIA™

100 IMS Drive
Parsippany, NJ 07054
iqvia.com

Via Email

July 25, 2018

Allergan Finance, LLC
Donald P. Bunnin
Executive Director, Senior Counsel – Litigation & Commercial Eye Care
2525 Dupont Drive
Irvine, CA 92612

RE: *In re: National Prescription Opiate Litigation*, MDL No. 2804, Case No. 17-md-2804 filed in the Northern District of Ohio

Data: IQVIA data concerning opioids from 1997 to the present from the following products Allergan has purchased: XPONENT and XPONENT PLANTRAK

Dear Mr. Bunnin:

This letter will serve as a response to your request on behalf of Allergan Finance, LLC (the "CLIENT"), to use the above-referenced Data and documents related thereto (the "IQVIA Information") in connection with the above-referenced litigation (the "Litigation"). IQVIA represents that IQVIA Information is confidential and proprietary to IQVIA and includes trade secrets. In addition, IQVIA has certain contractual obligations of confidentiality with its clients and its data sources, and the IQVIA Information may include confidential and proprietary trade secrets and information of those third parties. Accordingly, IQVIA Information retains its value to IQVIA (and to others noted above) so long as it is treated in accordance with the requirements of law affording certain protection for such information (e.g., laws governing trade secrets and copyrights).

You have requested that IQVIA consent to CLIENT's use of IQVIA Information in the Litigation, subject to Case Management Order No. 2: Protective Order entered by the Court on May 15, 2018 (the "Protective Order"), attached hereto as Exhibit A. To provide consent to this request, it is necessary that, on behalf of CLIENT, you represent and agree that any such usage or disclosure of IQVIA Information will be treated in a manner that does not compromise the above-mentioned protections or obligations and will be consistent with the following:

1. The IQVIA Information shall be deemed confidential information and shall be marked and designated as confidential and proprietary to IQVIA in a manner so as to be subject to the Protective Order. To the extent any terms of the Protective Order are inconsistent with the terms of this letter, the terms of this letter shall control.

2. Production of IQVIA Information shall be limited to that portion of IQVIA Information that is relevant to the Litigation.

3. The IQVIA Information shall only be used for purposes directly related to the Litigation and shall not in any event be used for any business, competitive, personal, private, public, or any other purpose.

4. All documents containing IQVIA Information shall be marked in such a manner as to be identified as documents requiring the highest level of confidential treatment available under the terms of the Protective Order. CLIENT has agreed to mark the IQVIA Information as "HIGHLY CONFIDENTIAL".

5. To the extent any production of IQVIA Information will be made to any state or federal entity, the cover letter with the production will include the following language or language substantially similar to the following:

> The information provided in the accompanying material contains trade secrets and proprietary and confidential commercial information of IQVIA. IQVIA requests that you take all appropriate measures to maintain the confidentiality of the information, including that the information be treated as confidential under the Freedom of Information Act ("FOIA") or any other applicable state open records law.

6. The IQVIA Information shall not be used to identify any person or entity (including any patient, consumer, outlet, supplier, plan, pharmacy or prescriber) that is not readily identifiable in the IQVIA Information. The IQVIA Information shall not be used to contact, for the purpose of obtaining testimony or otherwise, any person or entity (including any patient, consumer, outlet, supplier, plan, pharmacy or prescriber) identified in or identifiable from the IQVIA Information. The foregoing limitations shall not apply to independently derived information.

7. Although there is an inclination to view numerical data as fact, the IQVIA Information represents an estimate of measured activity and should be treated accordingly. As more fully described in our Published Specifications for Information Services ("Published Specifications"), IQVIA Information reflects projections, estimates, forecasts that are the result of a combination of confidential and proprietary technologies, statistical methodologies and a significant number of sources. These estimates reflect the independent judgment, expertise and opinion of IQVIA representatives to arrive at a reasonable approximation of market activity. The IQVIA Information is intended to support sales, marketing and research applications, and it is highly reliable for those purposes. The IQVIA Information, although appropriate for its intended purpose of supporting business and marketing analyses in industries such as the pharmaceutical industry, contains data that is susceptible to error or variance, and is not intended to be used as direct evidence or to establish any fact. Accordingly, IQVIA offers no assurances that the IQVIA Information will be suitable for use as evidence in any litigation. Attached, as Exhibit B, is a copy of these Published Specifications.

8. Any reports, documents, or exhibits that contain IQVIA Information together with information from other sources shall be identified as such, and shall not be represented as a report, document, or exhibit prepared by IQVIA.

9. When IQVIA Information is used in or as part of a proceeding in the Litigation, IQVIA will act only as an objective service provider and not as an expert on behalf of any party in the Litigation. IQVIA will not (1) offer testimony, affidavits, declarations or other evidence regarding the interpretation of the results of the IQVIA Information or the services performed by IQVIA; (2) provide any advice or engage in any advocacy with respect to witness testimony or expert analysis of any party; or (3) provide any opinion as to the relative merits of any party's position in the Litigation.

10. The IQVIA Information shall not be placed in any information repository accessible to any person or entity not directly involved in the Litigation, and shall not otherwise be made available to any person or entity not directly involved in the Litigation.

11. The IQVIA Information shall not be reverse engineered or disassembled, nor shall any attempt to ascertain the methodologies by which such information was obtained, sorted, projected, or manipulated be made.

12. In no event shall any disclosure of IQVIA Information be made to any competitor of IQVIA, or to any person who, upon reasonable good faith inquiry, could be determined to be an employee of any competitor of IQVIA, irrespective of whether that person is retained as an expert in the Litigation.

13. If IQVIA Information is submitted in a document filed in court, the IQVIA Information shall be filed under seal or through a similar mechanism for the protection of confidential information. If CLIENT desires to use at trial or in any public court proceeding any of the above-referenced IQVIA Information, CLIENT shall

request the court to permit presentation of such material with only counsel and court personnel present or in such other manner as the court deems appropriate to maintain the confidentiality of the IQVIA Information. If the court refuses to maintain the confidentiality of the IQVIA Information or public disclosure of IQVIA Information is otherwise expected to occur, CLIENT agrees to notify IQVIA at least 10 days prior to the expected disclosure if possible or as soon as possible after CLIENT receives notice that public disclosure of IQVIA Information is expected to occur, and to cooperate with IQVIA in maintaining the confidentiality of the IQVIA Information, provided, at no time shall the IQVIA Information be disclosed absent the foregoing confidentiality protections, without IQVIA's written consent.

14. A copy of this letter and its attachments will be provided with any production of IQVIA Information.

15. Within 60 days of the conclusion of the Litigation or the term set forth in the Protective Order, IQVIA Information and any copies thereof (except archival copies) shall be destroyed. Upon request of IQVIA, CLIENT shall provide written certification of any such destruction to the IQVIA Office of General Counsel. Notwithstanding the above, this provision does not require the destruction of IQVIA Data which was purchased for internal use pursuant to CLIENT'S license; any such destruction is governed by the terms of CLIENT'S license.

Subject to your agreement with the foregoing, IQVIA will consent to your request. If the above terms are acceptable, please counter-sign a copy of this letter where indicated and return it to my attention. Thank you.

Very Truly Yours,

/s/

Maureen Nakly
Associate General Counsel
IQVIA

Acknowledged and Agreed by:

SIGNATURE: _____

NAME: Donald Burman

TITLE: AVP

COMPANY/FIRM: Allergan

DATE: July 24, 2018